

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**MATTHEW PECK AND  
JEFFERY MOTLUCK,  
Plaintiffs,**

**v.**

**DAVID RANDOLPH SMITH &  
ASSOCIATES, et al .  
Defendants.**

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**Civil No. 3:20-cv-0634  
Judge Campbell/Frensley**

**ORDER**

Pending before the Court is a Motion to Dismiss Plaintiffs' Complaint filed by Defendants in this matter on November 5, 2020. Docket No. 12. Under Local Rule 7.01(a)(3) and the intervening holiday, a response was due by November 30, 2020. The docket shows that the Plaintiffs have not filed a response in opposition to the motion. The Court must therefore determine whether the Plaintiffs have abandoned their claims.

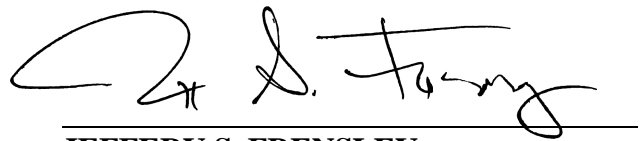
Federal Rule of Civil Procedure 41(b) "confers on district courts the authority to dismiss an action for failure of a Plaintiff to prosecute the claim or comply with the Rules or any order of the Court. *Schaffer v. City of Defiance Police Department*, 529 F. 3d 731, 736 (6<sup>th</sup> Cir. 2008)(citing *Knoll v. AT & T*, 176 F. 3d 359, 362-3 (6<sup>th</sup> Cir. 1999)); *Carpenter v. City of Flint*, 723 F. 3d 700, 704 (6<sup>th</sup> Cir. 2013)("It is well settled that a district court has the authority to dismiss *sua sponte* a lawsuit for failure to prosecute."). Similarly, this Court's Local Rules provides that "[c]ivil suits that have been pending for an unreasonable period of time without any action having been taken by any party may be summarily dismissed . . . without prejudice to refile or to move the Court to set aside the order of dismissal for just cause." Local Rule 41.01(a)(dismissal for unreasonable

delay. Dismissal for failure to prosecute is a tool for district courts to manage their dockets and avoid unnecessary burdens on opposing parties and the judiciary. *See Schaffer*, 529 F. 3d at 736 (quoting *Knoll*, 176 F. 3d at 363).

Accordingly, Plaintiffs are Ordered to show cause by December 30, 2020, why their claims should not be dismissed for failure to prosecute or for the reasons stated in the Defendant's Motion to Dismiss.

The Plaintiffs are forewarned that failure to respond to this Order may lead to a recommendation that their claims be dismissed

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "Jeffery S. Frensley", is written over a horizontal line.

**JEFFERY S. FRENSLEY**  
**United States Magistrate Judge**